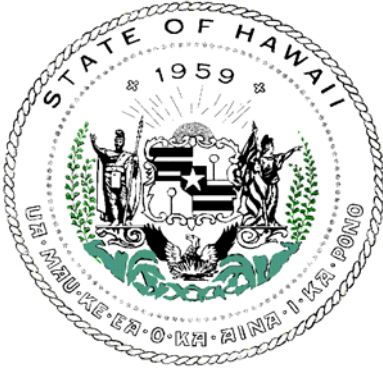


SEALED OFFERS
FOR
ROAD RESURFACING OF WAIPOLI ROAD IN THE KULA
FOREST RESERVE
FOR
DEPARTMENT OF LAND AND NATURAL RESOURCES

IFB-10-0440-M1

NOTICE TO ALL OFFERORS



STATE DEPARTMENT OF LAND AND NATURAL RESOURCES

LEGAL AD DATE:

INVITATION FOR BIDS **NO. IFB-10-0440-M1**

SEALED OFFERS FOR ROAD RESURFACING OF WAIPOLI ROAD IN THE KULA FOREST RESERVE FOR DEPARTMENT OF LAND AND NATURAL RESOURCES

WILL BE RECEIVED UP TO AND OPENED AT 2:00 P.M. (HST) ON

____**MAY 12, 2010**____.

IN THE STATE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE OFFICE, 54 SOUTH HIGH STREET, ROOM 101, WAILUKU, MAUI, HAWAII, 96793. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO JOHN CUMMING, TELEPHONE (808) 984-8100, FACSIMILE (808) 984-8111 OR E-MAIL AT JOHN.S.CUMMING@HAWAII.GOV

Laura H. Thielen
Dept. of Land & Natural Resources

ROAD RESURFACING OF WAIPOLI ROAD IN THE KULA FOREST RESERVE
DEPARTMENT OF LAND AND NATURAL RESOURCES
IFB-10-0440-M1

District Manager
Department of Land and Natural Resources
Division of Forestry & Wildlife
State of Hawaii
54 So. High St. Rm 101
Wailuku HI 96793

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto SPO GENERAL PROVISIONS and the AG General Conditions, Form AG-008 as revised attached separately; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Offeror is:

☐ Sole Proprietor ☐ Partnership ☐ *Corporation ☐ Joint Venture
☐ Other _____
*State of incorporation: _____

Hawaii General Excise Tax License I.D. No. _____

Payment address (other than street address below): _____
City, State, Zip Code: _____

Business address (street address): _____
City, State, Zip Code: _____

Respectfully submitted:

Date: _____ (x) _____
Authorized (Original) Signature

Telephone No.: _____

Fax No.: _____ Name and Title (Please Type or Print)

E-mail Address: _____ **
Exact Legal Name of Company (Offeror)

**If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:

MAUI

ITEM 1: Road Resurfacing

Repair AC roadway using number 4 asphaltic concrete mix and 6" of compacted base course as needed.

Per square foot of roadway: \$_____per square foot.

Offeror: _____
Name of Company

OFFEROR SHALL FURNISH THE FOLLOWING INFORMATION:

Company Name: _____

Company Address: _____

Telephone Number: _____ Fax Number: _____

E-Mail Address: _____

Contact Person: _____

Contractor's License No. for road resurfacing and culvert repair: _____

Commercial General Liability Insurance:

Insurance Agent (Company Name): _____

Contact Person: _____ Contact No.: _____

Insurance Underwriter: _____

Policy No.: _____

Subcontractors: If Offeror is using subcontractors for this project, Offeror shall provide the following information for each subcontractor:

1) _____
Name Address

Contact Name Contact Phone Number

2) _____
Name Address

Contact Name Contact Phone Number

3) _____
Name Address

Contact Name Contact Phone Number

Offeror _____
Name of Company

WAGE CERTIFICATE

FOR SERVICE CONTRACTS

(See Special Provisions)

Subject: IFB No.: IFB-10-0440-M1

Title of IFB: Road resurfacing of Waipoli Road in the
Kula Forest Reserve for the Department of Land and Natural Resources.

Pursuant to Section 103-55, Hawaii Revised Statutes (HRS), I hereby certify that if awarded the contract in excess of \$25,000.00, the services to be performed will be performed under the following conditions:

1. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and
2. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by section 103-55, HRS

Offerer_____

Signature_____

Title_____

Date_____

Reference: _____ (Contract Number) _____ (IFB/RFP Number)

maintains a "Certificate of Good Standing" from the Department of Commerce and Consumer Affairs, Business Registration Division.

Moreover, _____
(Company Name)
acknowledges that making a false statement shall cause its suspension and may cause its
debarment from future awards of contracts.

Signature: _____

Print Name: _____

Title: _____

Date: _____

OFFEROR SHALL PROVIDE THE FOLLOWING INFORMATION:

1. State of Hawaii Contractor License Information

TAX EQUALIZATION CERTIFICATE

SUBJ: Offer No.: IFB-10-0440-M1

Description: ROAD RESURFACING OF WAIPOLI ROAD IN THE KULA FOREST RESERVE
DEPARTMENT OF LAND AND NATURAL RESOURCES

Out-of-State Offerors not possessing a Hawaii General Excise Tax (GET) license must answer all questions:

- | | <u>Yes</u> | <u>No</u> |
|---|------------------|-----------|
| | (check only one) | |
| 1. Does your business have an office, inventory, property, employees, or other representation in the State of Hawaii (hereinafter SOH)? | ___ | ___ |
| 2. Does the contract to be awarded require your business to have an office, inventory, property, employees, or other representation in the SOH? | ___ | ___ |
| 3. Does your business provide services in conjunction with the sales of property, such as training, installation, or repairs in the SOH? | ___ | ___ |
| 4. Will your business provide any services in the SOH under the contract to be awarded? | ___ | ___* |

*If the entire services are to be subcontracted, subject to the State's approval, provide the names of the subcontractor(s):

If you answered "Yes" to any question, then you have sufficient presence in the State and are advised that the gross receipts derived from this solicitation are subject to the GET imposed by

Chapter 237, HRS, at the current 4% or 4.5%* rate, and where applicable to tangible property imported into the SOH for resale, subject to the current 1/2% use tax imposed by Chapter 238, HRS.

If you answered "No" to all questions, then the tax equalization provision described in Section 103D-1008, HRS, applies to you.

Offeror _____

Signature _____

Title _____

Date _____

(***Note:** The 4.5% GET evaluation rate shall be used only for sales made on Oahu. Other islands shall be evaluated at the 4% GET rate.)

GENERAL SPECIFICATIONS

I. Summary of Work: The Kula Forest Reserve is located on the Southern slopes of Haleakala and provides recreational opportunities for hunters, hikers and outdoorsmen. There is only one public access to the Kula Forest Reserve, Waipoli road. Due to wear and tear over time, the Division of Forestry and Wildlife proposes to resurface the Waipoli road, providing much needed maintenance to this heavily used access road.

Bids are solicited for road resurfacing of Waipoli road, the only public access into the forest reserve. A contractor is sought to provide labor and equipment for road resurfacing. The contractor is responsible for the transporting of equipment and material to and from the project site.

Due to the fiscal situation, it is uncertain if any awards will be issued in the upcoming year, however, the Department of Land and Natural Resources feels it is worthwhile to proceed with a request for applications as that situation is evolving. **Final awards are subject to the availability of funds and are subject to budget restrictions and procedures implemented under the Fiscal Year 2010-2011 Executive Biennium Budget Instructions.**

In addition to detailed specifications herein, the following requirements shall form a part of these specifications:

II. RESPONSIBILITY OF BIDDERS TO STUDY SITE: At the time of opening of bids, each bidder will be presumed to have conducted a detailed inspection of the project site. A guided site visit may be arranged by contacting Shane De Mattos at (808) 984-8100. The failure or omission of any bidder to thoroughly inspect the site or to receive or examine any form, instrument or document shall in no way relieve him or her from any obligation regarding this bid.

The bidder acknowledges that he or she has investigated and satisfied himself or herself as to the conditions affecting the project site. These conditions include but are not limited to, those bearing on transportation, access, roads, uncertainties of weather, river stages, tides, underwater topography and similar physical conditions at the site. The bidder further acknowledges that he or she has satisfied himself or herself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as is reasonably ascertained from an inspection of the site and bid documents.

Failure of the bidder to acquaint himself or herself with the available information will not relieve him or her from responsibility for estimating the difficulty or cost of successfully performing the work, nor will the bidder be relieved of his obligations to furnish all materials and labor, equipment and incidentals necessary to perform the work as set forth in his or her bid and to perform the purchase order work, if awarded.

A. BID SECURITY: A Security is not required.

- B. CONTRACTOR'S LICENSE REQUIRED:** All construction work must be done by contractors holding an "A" license and are licensed by the State Contractors License Board in accordance with Chapter 444, HRS; Title 16, Chapter 77, Hawaii Administrative Rules; and statutes amendatory thereto.

SUCCESSFUL BIDDER TO FILE PERFORMANCE AND PAYMENT BONDS: The successful bidder will not be required to file performance and payment bonds.

- C. **WAGES AND HOURS:** The latest minimum wage rates as promulgated by the Department of Labor and Industrial Relations shall be paid to the various classes of laborers and mechanics engaged in the performance of the purchase order work on the job site. The minimum wages shall be periodically increased during the performance of the purchase order work in an amount equal to the increase in the prevailing wages for those kinds of work as periodically determined by the Department of Labor and Industrial Relations.

No work shall be done on Saturdays, Sundays, and State holidays, and/or in excess of eight (8) hours each day without the written consent of the Engineer. Should permission be granted to work at such times, the contractor shall pay for all inspectional administrative costs thereof. No work shall be done at night unless authorized by the Engineer.

- D. **PRIVATE PROPERTY:** It shall be the responsibility of the contractor to respect the rights of the property of the State and to cooperate with them in preventing damage to existing improvements. The contractor will be held responsible for damages resulting from his operations. Immediately upon discovery the contractor shall repair, to the satisfaction of the Engineer, all existing improvements damaged by him.

- E. **PUBLIC CONVENIENCE AND SAFETY:** The contractor shall conduct his construction operations with due regard to the convenience and safety of the public at all times. No materials or equipment shall be stored where it will interfere with the safe passage of public traffic. The contractor shall provide, install, and maintain in satisfactory condition, all necessary signs, flares and other protective facilities and shall take all necessary precautions for the protection of the work and the convenience and safety of the public. The Engineer shall have the right to suspend the performance of the work.

- F. **WORKER SAFETY:** The contractor shall provide, install and maintain in satisfactory condition all necessary protective facilities and shall take all necessary precautions for the protection of and safety of the workers in accordance with the Occupational Safety and Health Standards for the State of Hawaii. The Engineer shall have the right to suspend the performance of the work.

- G. **BID DOCUMENTS:** The bid documents shall consist of the Notice to Contractors, Information to Bidders, Detailed Specifications, and Drawings.

- H. **SIGNS:** The contractor is required to provide signs and locate them near the entrance of Waipoli road and at the entrance of the Skyline Drive Trail head at the contractor's expense. Signs should be displayed five (5) days prior to the start of the project and must be kept operational until the completion of the project. Signs are needed to inform the public of upcoming road closures or anticipated delays while accessing the forest reserve.

- I. **ROAD CLOSURES:** Roads into the Forest Reserve may be closed for the length of the contract work. Forestry and Wildlife staff will be allowed access into the area, if deemed necessary. Forestry and Wildlife personnel are to be notified personally of all anticipated road closures.

- J. **CAMPING.** The Contractor will not be allowed to set up a campsite at the work area. The contractor will be responsible for all materials and equipment that will be left at the job site.
- K. **Native and Alien Plants and Animals.**
Plants and/or animals may not be removed from the site. The Contractor will implement precautions to prevent the introduction of alien plants and insects. Boots, equipment and material will be sterilized and inspected by the Contractor for seeds, eggs, etc., prior to delivery and entry into the project site, and cleaned as necessary. The Contractor will remove all food and other refuse daily, and tools, gear, and other equipment upon completion of work.
- L. **Deadline for Work to be Completed:**
All work must be completed by June 30, 2011.

III. Pre-start-up Conference

Contractor shall meet with staff from DOFAW soon after the award, if any. Topics to be included at the meeting will be:

- Designation of responsible officials
- Correspondence procedures
- Labor standard provisions
- Changes in specs
- Payments to the Contractor
- Safety program
- Communication
- Fire prevention
- Alien plants and animals precautions
- Miscellaneous

SPECIAL PROVISIONS

TERMS AND ACRONYMS USED HEREIN

Procurement Officer	=	The contracting officer for the State of Hawaii Department of Land and Natural Resources.
State	=	All agencies, including schools, participating in this agreement.
DLNR	=	Department of Land and Natural Resources of the State of Hawaii, located at 1151 Punchbowl Street, Honolulu, Hawaii 96813
DOFAW	=	Division of Forestry and Wildlife of the Department of Land and Natural Resources of the State of Hawaii located at 54 South High Street, Room 101, Wailuku, Hawaii 96793.
Bidder or Offeror	=	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
HRS	=	Hawaii Revised Statutes
HAR	=	Hawaii Administrative Rules
IFB	=	Invitation for Bids
RFP	=	Request for Proposals
GET	=	General Excise Tax
GIS	=	Geographic Information System

SCOPE

The work to be completed under this contract consists of road resurfacing of Waipoli road with asphaltic concrete pavement and other incidental and appurtenant work necessary to complete the project. Work should be in accordance with these Special Provisions, the attached Specifications, and the General Terms and Conditions developed by the Attorney General's office (Form AG2-GC(1/01)), included by reference and available from DOFAW or on-line at <http://www2.hawaii.gov/bidfiles/generalcondititions1.pdf>.

RESPONSIBILITY OF OFFERORS

Offeror is advised that if awarded a contract under this solicitation, Offeror shall, upon award of the contract, furnish proof of compliance with the requirements of §103D-310(c), HRS:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. One of the following:
 - a. Be registered and incorporated or organized under the laws of the State (hereinafter referred to as a "Hawaii business"); **or**
 - b. Be registered to do business in the State. (hereinafter referred to as a "compliant non-Hawaii business").

Refer to the Award of Contract provision herein for instructions on furnishing the documents that are acceptable to the State as proof of compliance with the above-mentioned requirements.

Special Provisions, the SPO General Provisions and the AG General Conditions, Form AG-008 as revised.

CONTRACT ADMINISTRATOR (CA)

For the purposes of this contract the designated CA is Shane De Mattos, telephone (808) 984-8100, facsimile (808) 984-8111 or emailed: shane.demattos@hawaii.gov

DOFAW PROJECT REPRESENTATIVE

For purpose of this contract, Shane De Mattos (808) 984-8100, of the Division of Forestry and Wildlife, Maui District, is the designated project representative.

TERM OF CONTRACT

The successful offeror shall enter into a contract for a period of one (1) month to commence from the date indicated on the Notice to Proceed. Prior to the issuance of the Notice to Proceed the successful offeror and the State shall mutually agree to the official commencement date.

Contract extension(s) shall be permitted for reasons beyond the control of the Contractor and as confirmed by the State. Contract extension(s) shall be done through DOFAW in the form of modifications to the contract.

FEDERAL FUNDS AS RECEIVED (PARTIAL)

It is understood and agreed by all bidders that as to the portion of the obligation under the contract resulting from this IFB payable out of federal funds, the contract shall be construed to be an agreement to pay the portion to the contractor only out of federal funds to be received from the federal government when the federal funds are so received and shall not be construed as a general agreement to pay the portion at all events out of any funds other than those which are received from the federal government.

The Contractor is responsible for compliance of all federal laws and regulations required for the use of federal funds.

OFFEROR QUALIFICATIONS

1. Offeror shall have an established place of business in the State of Hawaii with reasonable inventory, of supplies, tools and equipment for providing tree cutting and chipping and shall furnish the name and address of this facility in the space provided on the appropriate OFFER FORM page.

The State reserves the right to inspect Offeror's facility to determine acceptability under this requirement.

2. Bidder shall have performed at least one (1) project in the State of Hawaii of similar size and complexity as specified herein.

For verification purposes, bidder shall provide on the appropriate OFFER FORM pages the name or description of the project and the contact person who coordinated the project including his/her contact number.

WRITTEN INQUIRIES

Inquiries regarding this solicitation are due on or before 3:00 p.m., _____.
Inquiries shall be made in writing, either via U.S. Postal Service, facsimile (808) 243-4659, or e-mail to shane.demattos@hawaii.gov.

PRE-BID ON-SITE INSPECTION

Although not mandatory, bidders are strongly advised to inspect the project area prior to submitting a bid. Maps can be obtained from the Department of Land and Natural Resource office in Kahului or Wailuku, and a site visit may be arranged by contacting Shane De Mattos, Wildlife Biologist, at (808) 984-8100 or 243-4659. Failure to visit the work area/installation site will in no way relieve the successful bidder from completion of the work in accordance with conditions and specifications to the satisfaction of the Contracting Officer's Representative.

SUBMISSION OF OFFER

Item 1: Offers shall be received at the Maui Division of Forestry & Wildlife, 54 S. High St. Rm.101, Wailuku, Maui, Hawaii 96793, no later than the date and time stated on the cover page of the IFB. Timely receipt of offers shall be evidenced by the date and time registered by the District's time stamp clock. Offers received after the deadline shall be returned unopened.

If the Offeror chooses to deliver its offer by United States Postal Service (USPS), please be aware that USPS deliveries may not be timely. This may cause a delay in receipt by the Solicitor and the offer may reach the Solicitor after the deadline, resulting in automatic rejection.

BID PREPARATION

Offer Form, Page OF-1. Offeror is requested to submit its offer using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on Offer Form, page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the first page of the Offer Form shall be an original signature in ink, which shall be required before an award, if any, can be made. The signed offer Form page OF-1 shall indicate offeror's intent to be bound.

Hawaii business. A business entity referred to as a "Hawaii business", is registered and incorporated or organized under the laws of the State of Hawaii.

Compliant non-Hawaii business. A business entity referred to as a “compliant non-Hawaii business,” is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State

Bid Quotation. The bid price shall include labor, equipment, installation, transportation, storage, training, all applicable taxes and other cost incurred to provide services specified including the transaction fee for processing this procurement electronically.

- All costs incurred to prepare and respond to this solicitation;
- The transportation of work crew, equipment, materials, and tools to the installation site;
- The labor and whatever related costs to remove materials, supplies, equipment and tools from the installation sites during and at the completion of the contract;
- All costs necessary to attend project meetings;
- All communications costs, including equipment;
- All applicable taxes, including the GET; and
- Any other related costs to perform this contract as specified.

Insurance. Offeror shall provide proof of insurance including: the insurance agent (company name), contact person and phone number, the insurance underwriter, and the policy number. Failure to provide such information shall be grounds for bid rejection.

Subcontractors. Offeror shall provide the name and contact information for any subcontractor to be used on the project. Failure to provide this information shall be grounds for bid rejection.

Chapter 104, HRS, Wages and Hours of Employees on Public Works. Offeror is advised that Chapter 104, HRS shall apply to this solicitation. Offeror may access this Chapter on the State's website: www.ehawaii.gov/government/html/index.html.

Wage Certificate. The Offeror shall complete and submit a Wage Certificate by which the Offeror certifies that services required will be performed pursuant to §103-55, HRS.

Tax Liability. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and if applicable, taxable under Chapter 238, HRS. Vendors are advised that they are liable for the Hawaii GET at the current 4% rate for all islands except Oahu, and 4.5% for the island of Oahu only, which includes the .5% assessment for the County Surcharge Tax (CST), and the applicable Use tax at the current at the rate of .5%. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

Taxpayer Preference. For evaluation purposes, pursuant to §103D-1008, HRS, the Offeror's tax-exempt price offer submitted in response to an IFB shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

Offer Guaranty. An offer guaranty is NOT required for this solicitation.

CANCELLATION OF IFB

The State reserves the right to cancel this IFB and to reject any and all bids in whole or in part when it is determined to be in the best interest of the State.

The State shall not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by an Offeror in the event this IFB is cancelled or a Bid is rejected.

ACCEPTANCE OF OFFER

Acceptance of offer, if any, will be made within sixty (60) calendar days after the opening of offers, and the prices quoted by the offeror shall remain firm for the sixty days period.

AWARD OF CONTRACT

ALL ITEMS WILL BE AWARDED SUBJECT TO AVAILABILITY OF FUNDS.

Method of Award. Awards, if any, shall be to the responsive, responsible Offeror submitting the lowest Total Bid Price for each item. Offeror need not bid on all items to be considered for award.

Restriction of funding: Awards are subject to the availability of funds and budget restrictions and procedures implemented under FY 10-11 Executive Biennium Budget Instructions. Funded projects that are dependent for facilities and staff support from the DLNR may be subject to restrictions in work schedules and number of days worked per month to conform with facility closures at the DLNR, up to two (2) non-pay and non-duty days a month, equivalent to a 12.2% reduction in operating days per year.

Responsibility of Lowest Responsive Bidder. Reference §3-122-112, HAR, Responsibility of Offerors. If compliance documents have not been submitted to DOFAW prior to award, the lowest responsive offeror shall produce documents to DOFAW to demonstrate compliance with this section.

HRS Chapter 237 tax clearance requirement for award. Instructions are as follows:

Pursuant to §103D-328, HRS, lowest responsive offeror shall be required to submit a tax clearance certificate** issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by DOFAW.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX *TAX CLEARANCE APPLICATION* Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii, or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): <http://www.state.hi.us/tax/alphalist.html#a>

DOTAX Forms by Fax/Mail:

(808) 587-7572

1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX:	(808) 587-1488
IRS:	(808) 539-1573

The application for the clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to DOFAW. However, the tax clearance certificate shall be submitted to DOFAW

** Tax clearance may take several weeks to obtain. Offerors are encouraged to apply for tax clearance as soon as possible to prevent delay in executing a contract and issuing a Notice to Proceed. **

Hawaii Compliance Express. Refer to Section 26 of the SPO General Provisions. Vendors may choose to use the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> to acquire a "Certificate of Vendor Compliance." The HCE provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance" indicating that vendor's status is compliant with the requirements of §103D-310(c), HRS, shall be accepted for both contracting purposes and final payment. Vendors that elect to use the new HCE services will be required to pay an annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC). Vendors choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the referenced SPO General Provisions, Section 26.

HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.
Instructions are as follows:

Pursuant to §103D-310(c), HRS, the lowest responsive offeror shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by DOFAW. A photocopy of the certificate is acceptable to DOFAW.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR*, Form LIR#27 which is available at www.dlir.state.hi.us/forms/ApplicationforCertificateofCompliance.pdf or at the neighbor island DLIR District Offices. The DLIR will return the form to the Offeror who in turn shall submit it to DOFAW.

The application for the certificate is the responsibility of the offeror, and must be submitted directly to the DLIR and not to DOFAW. However, the certificate shall be submitted to DLNR-DOFAW.

Compliance with Section 103D-310(c)(1) and (2), HRS. Pursuant to section 3-122-112, HAR, the lowest responsive offeror shall be required to submit a *CERTIFICATE OF GOOD STANDING* (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received by DOFAW. A photocopy of the certificate is acceptable to DOFAW.

To obtain the Certificate, the Offeror must first be registered with the BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

On-line business registration and the Certificate are available at www.BusinessRegistrations.com. To register or to obtain the Certificate by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

Timely Submission of all Certificates. The above certificates should be applied for and submitted to DOFAW as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

Final Payment Requirements. Contractor is required to submit a tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

In addition to the tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the Form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Chapter 103D, HRS, pop-up menu.

NOTICE TO PROCEED

No work is to be undertaken by the Contractor prior to the Commencement Date specified on the official Notice to Proceed. The State of Hawaii will not be liable for any work, contract, cost, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official start date.

EXECUTION OF CONTRACT

No performance and payment bonds are required.

The State shall forward to the successful Offeror a formal contract to be signed by the Contractor and returned within ten (10) days. No work is to be undertaken by the Contractor prior to the commencement date specified on the Notice to Proceed issued by the State upon execution of the contract by both parties. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official commencement date.

Should it become necessary to extend the contract, a Contract Modification shall be executed for the extended period.

LIABILITY INSURANCE

The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to protect the Contractor and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by a subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, the Contractor may require the subcontractor(s) to provide its own insurance which meets the requirements herein. It is

understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s) where appropriate.

CERTIFICATES REQUIRED

INVOICING

Contractor shall submit original and three copies of the invoice to the agency address specified per each item number on Delivery and Invoice Information.

Invoices should reference both the contract number and the IFB number.

A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract. In addition to the tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" under the "Quick Links" section of the homepage. Alternately, a "Certificate of Compliance" issued by the Hawaii Compliance Express shall be acceptable for this requirement.

LIABILITY INSURANCE

The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to protect the Contractor and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by a subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, the Contractor may require the subcontractor(s) to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s) where appropriate.

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability (Occurrence form)	\$2,000,000 combined single limit per occurrence for bodily injury and property damage

**Basic Motor Vehicle Insurance
and Liability Policies**

**BI: \$1,000,000 per person
\$1,000,000 per accident
PD: \$1,000,000 per accident**

Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clauses:

1. "This insurance shall not be canceled, limited in scope of coverage or non-renewed until after 30 days written notice has been given to the State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife, 1151 Punchbowl Street, Room 325, Honolulu, Hawaii 96813."
2. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
3. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements.

Upon Contractor's execution of the contract, the Contractor agrees to deposit with the State of Hawaii certificate(s) of insurance necessary to satisfy the State that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the State, the Contractor shall be responsible for furnishing a copy of the policy or policies.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the State to exercise any or all of the remedies provided in this contract for a default of the Contractor.

The procuring of such required insurance shall not be construed to limit the Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, the Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

PERMITS, LICENSED, AND TAXES

The Contractor shall procure all permits and licenses, during the original or extended contract term, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Failure to procure and maintain valid permits and licenses required by law and these specifications may be cause for the State to terminate the contract

PRICE ADJUSTMENT DUE TO WAGE INCREASE TO STATE EMPLOYEES

[The following example is based on hourly rates for security guard services. PS will have to customize this adjustment provision to the type of services being procured.]

1. Contract price adjustment shall be considered:

- a. Only upon request by the Contractor accompanied by proof satisfactory to the State that its employees have been paid comparable wages to State employees; and
- b. Only if there is a wage increase to public employees performing comparable work; and
- c. Only for the contract period in which the price adjustment request is submitted (current contract period only).

Example:

Original contract period: March 7, 2003 to March 6, 2004

Extension period: March 7, 2004 to March 6, 2005

The option to extend the original contract is exercised for the period March 7, 2004 to March 6, 2005. On March 1, 2005, the State announces a pay raise retroactive to July 1, 2003 and the Contractor soon thereafter submits a request of modification is issued accompanied by acceptable documentation. A contract modification is issued to reflect a price adjustment for the current period of the contract, March 7, 2004 to March 6, 2005. Note that the price adjustment is not applied retroactively to July 1, 2003 since the condition of this contract allows price adjustment to the current contract period only.

2. Price adjustment based on the actual dollar increase per hour per State employee shall be calculated as follows:

- a. Bid Price/Hr/Officer (A) = (A) for example = \$15.00/hr
- b. Current Hourly Wage Rate (B) = (B) for example = \$11.00/hr
- c. New Hourly Wage Rate paid to State Employees (C) = (C) for example = \$11.50/hr
- d. Hourly Wage Increase to State employees (D) = (D) for example = \$.50/hr
- e. Adjusted Bid Price/Hr/Officer (E) = (A) + (D), or
\$15.00 + \$.50 = \$15.50/hr

3. In addition to the actual dollar amount of wage increase, Contractor may apply for the percentage (%) fringe benefits required by Statute. However, the resulting fringe benefit percentage shall only be applicable to the actual dollar amount of increase and the State shall only consider those benefits that are required by contract and are directly affected by the wage increase.

If request includes adjustment for wage related fringe benefits, Contractor must provide support documentation and an itemized percentage breakdown of the fringe benefits being paid.

The State has determined that the applicable fringe benefits for wage related price adjustments shall be limited to: 1) Federal Old Age Benefits, 2) Worker Compensation, 3) Temporary Disability Insurance, and 4) Unemployment Insurance. Based on past experience, it has been determined that the percentage increase be set at 16%. If Contractor is able to document that its percent for fringe is higher than 16%, the State will review and consider Contractor's claim.

The following method of calculation shall be applied for the fringe benefits:

- a. 16% for Allowable Fringe Benefits
 - b. $\$ \text{ Adjusted for Allowable Fringe Benefits (F) } = (D) \times (.16) = F$, or
 $\$.50 \times .16 = \$.08$
 - c. $\text{Adjusted Bid Price/Hr/Officer} + \text{Fringe Benefits} = (E) + (F)$, or
 $\$15.50 + \$.08 =$
 $\$15.58$
4. After the contract modification for the increase is issued by the State, but before payment of an increase is made on the portion of the current contract period already performed, the Contractor shall show proof that its employees were given the retroactive wage increase.

SUBCONTRACTORS

The Contractor shall not delegate any duties listed in this IFB to any subcontractor unless the Contract Administrator has given written approval. The State reserves the right to approve all subcontractors and shall require the primary contractor to replace any subcontractors found to be unacceptable. The primary contractor will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract, and shall be responsible for all services whether or not the primary contractor performs them.

RE-EXECUTION OF WORK

The Contractor shall re-execute any work that fails to conform to the requirements of the contract and shall immediately remedy any defects due to faulty workmanship by the Contractor. Should the Contractor fail to comply, the State reserves the right to engage the services of another company to perform the services and to deduct such costs from monies due to the Contractor.

26.0 REMOVAL OF CONTRACTOR'S EMPLOYEES

Contractor agrees to remove any of its employees from services rendered and to be rendered to the State, upon request in writing by the Procurement Officer.

LIQUIDATED DAMAGES

Refer to Section 9 of the AG General Conditions, Form AG-008, as revised. Liquidated damages is fixed at the sum of TWENTY-FIVE DOLLARS (\$25.00) per each and every calendar

day per location per violation the Contractor fails to perform in whole or in part any of his obligations specified herein. Liquidated damages, if assessed, may be deducted from any payments due or to become due to the Contractor.

ADDITIONS, AMENDMENTS, AND CLARIFICATIONS TO THE SPO GENERAL PROVISIONS, DATED 1/1/07

Section 1. DEFINITIONS OF TERMS. Add the following terms to this section.

cc. AG General Conditions

General Conditions issued by the Department of the Attorney General of the State of Hawaii, referred to as Form AG-008, as revised, and included in solicitations by reference. The applicable revised Form AG-008, which is included by reference, is the form dated and in effect at the date the solicitation is issued.

dd. SPO General Provisions

General Provisions issued by the SPO, referred to as SPO GP, is in addition to the SPECIAL PROVISIONS unique to each solicitation; and is included by reference in solicitations issued by the SPO.

Section 8. CERTIFICATION OF OFFEROR CONCERNING WAGES, HOURS AND WORKING CONDITIONS OF EMPLOYEES SUPPLYING SERVICES. The following changes were made to Section 103-55, HRS, amended by Act 149, SLH 1999:

1. Contract amount for services amended from “excess of \$5,000” to “excess of \$25,000;” and
2. The list of contract services excluded from the Compliance with labor laws requirement is amended to read:
 - (1) Managerial, supervisory, or clerical personnel.
 - (2) Contracts for supplies, materials, or printing.
 - (3) Contracts for utility services.
 - (4) Contracts to perform personal services under paragraph (2), (3), (12), and (15) of section 76-16, paragraphs (7), (8), and (9) of section 46-33, and paragraphs (7), (8), and (12) of section 76-77, Hawaii Revised Statutes (HRS).
 - (5) Contracts for professional services.
 - (6) Contracts to operate refreshments concessions in public parks, or to provide food services to educational institutions.
 - (7) Contracts with non-profit institutions.

PAYMENT SCHEDULE

Payment in full will be made upon satisfactory completion of the road resurfacing of Waipoli road in accordance with the specifications listed herein. DOFAW must complete a final inspection of the road resurfacing to certify that the project is completed according to the specifications listed herein before final payment is approved.

Section 103-10, HRS, provides that the State shall have thirty (30) calendar days after receipt of invoice or performance of the services to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by Section 103-10, HRS.

The State will not recognize any requirements established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute.

LIQUIDATED DAMAGES

Liquidated damages is fixed at the sum of TWENTY-FIVE DOLLARS (\$25.00) per scheduled calendar day, for each and every calendar day the Contractor delays in the completion of any item of this contract after the required date of said completion

DOCUMENTS SUBMITTAL FOR FINAL PAYMENT

The following document shall be submitted for all contracts and/or purchase orders resulting from this bid in order for the State to process final payment:

Guarantee of workmanship, equipment, etc., as designated in the Special Provisions.

AUTHORITY OF THE STATE

The State shall decide all questions that may arise as to the work performed hereunder, as to the manner of such performance, as to the interpretation of any law, rule or regulation, policies and procedures, as to compensation, as to road condition or additional reason to service, and as to any other matter that may arise under the Contract. The decision of the State in such matters shall be final as long as not in violation of law and not arbitrary, capricious or characterized by abuse of discretion.

PROTEST

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows, or should have known, of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award letter(s), if any, resulting from this solicitation shall be posted on the bulletin board in room 101, 54 South High Street Room 101, Wailuku, Hawaii 96793.

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Chair of the Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii 96813 or P. O. Box 621, Honolulu, Hawaii 96810-0119.

ADDITIONAL CONDITIONS

Approvals. Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

Cancellation of Solicitations and Rejection of Offers. The solicitation may be cancelled or the offers may be rejected in whole, or in part when in the best interest of the purchasing agency, as provided in §§3-122-95 through 3-122-97, HAR.

Confidentiality of Material. All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, chapter 92F, HRS. The Offeror shall designate, in writing, those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to §3-122-58, HAR, in the case of an RFP, or §3-122-30, HAR, in the case of an IFB. The Offeror shall state in its written communication to the DOFAW project representative, the reason(s) for designating the material as confidential, for example trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of opening regardless of any designation to the contrary.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Office of the Attorney General in accordance with chapter 92F, HRS. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror protests under chapter 3-126, HAR. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with §92F-15.5, HRS.

Nondiscrimination. No person performing work under this Agreement, including any subcontractor, employee, or agency of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

Records Retention. The Contractor and any subcontractor(s) shall maintain the books and records that relate to the Agreement and any cost or pricing data for three (3) years from the date of final payment under the Agreement.

Year 2000 Compliance. All appropriate hardware, software, and systems utilized for the work specified herein shall be year 2000 compliant.

